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CLEARINGHOUSE RULE 99-028

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. Please review SECTION 1. There is no s. HFS 61.02 (21), (24) and (26).
- b. Throughout the rule-making order, subsection titles should not be written in bold print. [See s. 1.05 (2) (c), Manual.]
- c. In s. HFS 75.03 (6) (c), “currently” should be deleted.
- d. Throughout the rule, the active voice should be used. For example, s. HFS 75.03 (15) (c) should begin “The person making the entry shall sign” In that subsection, par. (d) should begin “_____ shall make an effort”
- e. In s. HFS 75.15 (3), “(l)” should be replaced with “(L)” to avoid confusion with the numeral “1”. This comment also applies to s. HFS 75.15 (5) and (11).
- f. In s. HFS 75.15 (18), par. (a) should be numbered sub. (18) (intro.) and the subsequent paragraphs should be pars. (a) to (h).

4. Adequacy of References to Related Statutes, Rules and Forms

a. The rule repeals subch. III of ch. HFS 61 and creates ch. HFS 75. Several provisions of current rules have cross-references to subch. III of ch. HFS 61 or sections in that subchapter. These cross-references need to be updated. For example, see ss. HFS 40.01 (2), 61.021 (1), 61.91 (2), 62.01 (3) (a), (p) and (r), 62.05 (5) and 348.04 (4) (c) 1. c.

b. In s. HFS 75.02 (32), should “ss. HFS 75.06 to 75.14” be replaced with “ss. HFS 75.06 to 75.15”?

c. In s. HFS 75.03 (9) (b) (intro.), the cite to ch. HFS 124 is either not specific enough or is incorrect.

d. In s. HFS 75.06 (3), it would be helpful to have a cite that is more specific than the cite to ch. HFS 124.

e. In s. HFS 75.10 (4) (d) 4., the cite to s. HFS 75.03 (3) (g) is incorrect. The correct cite seems to be s. HFS 75.03 (3) (h).

f. In s. HFS 75.15 (7) and (8) (intro.), the cite to 45 CFR 46 should be to 45 CFR Part 46.

g. In s. HFS 75.15 (9) (b) 3., the cite to sub. (8) should be to sub. (11).

h. In s. HFS 75.15 (13) (a) 1., the cite to 42 CFR 493 should be to 42 CFR Part 493.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. HFS 75.01 (1) (b), in the last sentence, does “the number of units of any particular service” mean the number of units required for any particular service? Please clarify.

b. In s. HFS 75.01 (2), what is meant by “funded through the single state agency for substance abuse services”?

c. In s. HFS 75.02, there are too many definitions. For example, the definitions of the services described later in the chapter are unnecessary because the services are adequately described in the later sections and it is easier for the reader to find those descriptions in the later sections. Also, the definitions of “follow-up”, “prevention measures” and “transfer” are all clearly explained later in the chapter and do not require a definition. Finally, some of the definitions are of terms whose meaning is clear from the phrase and any further explanation would be better placed later in the chapter. Some examples of these definitions are “consultation”, “hospital services”, “medical services”, “patient-identifying information”, “prescription”, “prevention”, “relapse prevention”, “substance abuse screening” and “withdrawal screening”.

In addition, several of the definitions inappropriately contain substantive material. [See s. 1.01 (7) (b), Manual.] See the last sentence of sub. (16), the material after “service” in sub. (50), sub. (77) (a) to (c) and the second sentence of sub. (90).

d. In s. HFS 75.02 (2), what is meant by “structured”? This comment also applies to ss. HFS 75.08 (1) and 75.12 (1).

e. In s. HFS 75.02 (5), the defined term should be “ASAM criteria.”

f. In s. HFS 75.02 (11) (a), it would be helpful to have some clarification as to what a “suitable period” of orientation is.

g. In s. HFS 75.02 (30), it may be helpful to insert “consultation with” before “non-substance abuse treatment professionals.”

h. The rule defines “physician,” “physician assistant” and “registered nurse.” For consistency, it should also define “licensed practical nurse.”

i. In s. HFS 75.02 (34), “at least” should be moved to immediately follow “licensed to.” However, it seems that this subsection could be simplified and clarified by rewriting it along the following lines: ““Medical personnel” means a physician, physician assistant, registered nurse or licensed practical nurse.” If it is intended that other health care professionals be included, they should be listed. The final two lines of the definition are substantive and should be deleted. The phrase “certified under ch. 448, Stats.”, is inaccurate and unnecessary.

j. In s. HFS 75.02 (37) and (38), “licensed under ch. 448, Stats.” should be deleted since “physician” is defined. This comment also applies to s. HFS 75.10 (4) (a) 2.

k. In s. HFS 75.02 (42), the hyphen following “24-hour” should be deleted.

l. In s. HFS 75.02 (58), “licensed” should replace “certified.” See s. 448.05 (5) (a), Stats.

m. In s. HFS 75.02 (72) (b), the hyphen between “knowledge” and “base” should be deleted.

n. In s. HFS 75.02 (73), the use of the word “staffing” for a review of a patient’s care is confusing. Could another word or phrase, such as “staff review,” be used?

o. In s. HFS 75.02 (77) (c) 2., “the effective date of this chapter [revisor to insert effective date]” should be replaced with “the effective date of this chapter [revisor inserts date].” This comment also applies to s. HFS 75.03 (6) (c). It is suggested that the phrase also be inserted after “5 years from the effective date of this chapter,” so that that date can also be inserted.

p. In s. HFS 75.03 (3) (h), a comma should be inserted after “in the selection of staff.”

q. In s. HFS 75.03 (4) (d), “except physicians and psychologists” should be moved to immediately follow “substance abuse counseling.”

r. In s. HFS 75.03 (9) (b) 2., “The individual’s” should be inserted at the beginning of the sentence.

s. In s. HFS 75.03 (12) (e), a phrase such as “as determined” should be inserted before “through.”

t. Section HFS 75.03 (13) (c) states that a patient’s treatment plan constitutes a treatment contract between the patient and the service. It is not clear what is significant about construing the plan to be a contract. This provision should be clarified or deleted.

u. In s. HFS 75.03 (14) (c), please review the portion of the paragraph that states “and shall discuss with the patient and the patient’s progress and status.” Should the second “and” be deleted?

v. In HFS 75.03 (17) (c) 5., why is the word “countersignature” used? Could “signature” be used? Also, see s. HFS 75.15 (11) (c).

w. The drafter may wish to define the terms “STD”, “HIV” and “TB” in s. HFS 75.02 since those abbreviations are used in several places in the rule.

x. In s. HFS 75.04 (4) (a) 4. (intro.), “or” should be inserted before “indulging in the first use of illicit drugs.”

y. In s. HFS 75.04 (4) (a) 5. (intro.), the hyphen following “at-risk” should be deleted.

z. Section HFS 75.04 (5) (c) should begin with “A”, as should s. HFS 75.09 (4) (d) and (6) (e).

aa. In s. HFS 75.05 (3) (b) 5., it is unclear what is meant by “The difficulty inherent in contacting staff members.”

ab. In s. HFS 75.07 (4) (e), “transpiration” should be replaced with “transportation.”

ac. In s. HFS 75.09 (3) (a), it would be clearer to rewrite the sentence as: “A service shall have at least one staff person trained in the recognition of withdrawal symptoms on duty 24 hours per day, 7 days per week.”

ad. In s. HFS 75.09 (4) (a), it would be helpful to clarify what is meant by “recent” documentation.

ae. In s. HFS 75.10 (3) (c), “as a hospital” should be inserted before “under ch. HFS 124.”

af. In s. HFS 75.11, “an” should be replaced with “a” when preceding “medically monitored inpatient treatment service.”

ag. In s. HFS 75.14 (4) (a) 5., for consistency with the other subdivisions, “shall be” should be replaced with “who is.”

ah. In s. HFS 75.14 (6) (d), “a week” should be replaced with “per week.”

ai. In s. HFS 75.15 (1), it appears that the comma following “psychological” should be replaced with “and.”

Also in that subsection, it appears that the second sentence could be deleted because it is simply descriptive of what methadone does and does not assist an operator of a narcotic treatment service.

aj. In s. HFS 75.15 (3) (d), this definition could be deleted. It is clear from the use of the phrase in the section what it means. If it is not deleted, should “or other FDA-approved narcotic” be inserted after “methadone”?

ak. In s. HFS 75.15 (5) (i), can “relevant dates” be clarified?

al. In s. HFS 75.15 (5) (b), “is” should be replaced with “shall be.”

am. In s. HFS 75.15 (5) (g), the second sentence is not substantive and should therefore be placed in a note.

an. In s. HFS 75.15 (5) (j) 9., “provide” should be replaced with “providing.”

ao. In s. HFS 75.15 (6) (a) and (b), “A description of” should be inserted at the beginning of the sentence.

ap. In s. HFS 75.15 (9) (a) 8., the comma after “drug ingesting” should be replaced with “and.”

aq. In s. HFS 75.15 (9) (b) 5. b., it is unclear what is meant by the sentence.

ar. In s. HFS 75.15 (10) (e), it is unclear what is meant by “with an allowance for margin of effectiveness and safety.”

as. In s. HFS 75.15 (11) (a), “varies from one patient to another and” should be deleted.

at. In s. HFS 75.15 (11) (h), it is unclear why this provision is included in the subsection describing take-home medication.

au. In s. HFS 75.15 (11) (L), what criteria should the service physician use to determine that a patient is responsible in handling narcotic drugs?

av. In s. HFS 75.15 (13) (b), will it be clear to readers what is meant by “peak and trough determinations”?

aw. In s. HFS 75.15 (14), par. (a) should be deleted because it is adequately addressed by the subsequent provisions.

ax. In s. HFS 75.15 (14) (b) (intro.), “is” should be replaced with “shall be.”

ay. In s. HFS 75.15 (15) (b) 3., it is unclear what is meant by “dependency substitution.”

az. In s. HFS 75.15 (16) (d) 2., can consistent terminology be used to describe the stages of pregnancy; e.g., “before the 14th week or after the 32nd week of pregnancy”?

ba. In s. HFS 75.15 (18), it appears that pars. (b) and (c) could be combined.

bb. In s. HFS 75.15 (18) (i), what does it mean for the physical environment to be conducive to rehabilitation? This provision should be more specific or should be deleted.

bc. In s. HFS 75.15 (19), it seems that pars. (b) 3., 4., and 5. and (d), (e) and (f) would be more appropriately placed under the subsection relating to take-home medications.

bd. In s. HFS 75.15 (20) (a) 6. e., the comma after “detect substances” should be replaced with “and.”